

**HOLTZMAN VOGEL PLLC**  
*Attorneys at Law*

October 4, 2005

**VIA FACSIMILE  
VIA OVERNIGHT MAIL**

Jeff Jordan  
Supervisory Attorney  
Complaints Examination and Legal Administration  
Federal Election Commission  
999 E Street, NW  
Washington, DC 20463

Re: MUR 5678

Dear Mr. Jordan:

This letter is in response to your correspondence, received September 6, 2005, and shall constitute the formal response of Nancy Schafer, Treasurer (hereinafter "Schafer"), and BULLY! PAC, Inc., to MUR 5678. Complainant Renee Pfenning (hereinafter "Pfenning") alleges that 1) BULLY! PAC made unlawful, excessive contributions to the Liffrog for Senate campaign, and 2) BULLY! PAC accepted an earmarked contribution.

**I. EXCESSIVE CONTRIBUTION**

During the 2004 North Dakota United States Senate campaign, BULLY! PAC was a newly formed political committee registered with the Federal Election Commission. Among BULLY! PAC's first contributions was a disbursement on behalf of the Liffrog for Senate campaign. Specifically, on December 15, 2004 BULLY! PAC made a \$6,000 in-kind contribution to the Liffrog for Senate candidate committee. The \$6,000 in-kind represented payment to Newman Signs, a North Dakota sign company, for provisions of billboards purchased on behalf of the campaign by BULLY! PAC.

Unfortunately, the BULLY! PAC \$6,000 in-kind contribution was made in error and BULLY! PAC attempted to correct the oversight as soon as it was discovered. BULLY! PAC requested a refund in the amount of \$4,000 from the Liffrog for Senate campaign (see attached). BULLY! PAC concedes that as a newly formed PAC, it was not yet qualified as a multi-candidate committee under the Commission's rules and therefore, its \$6,000 contribution was excessive.

BULLY! PAC takes its compliance obligations very seriously. As soon as BULLY! PAC realized the error, BULLY! PAC requested a refund from the Liffrog for

98 Alexandria Pike  
Suite 53  
Washington, DC 20001  
p/540-341-8888  
f/540-341-8888  
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Senate Committee. BULLY! PAC is extremely sorry for the oversight and has instituted a policy such that prospectively, all contributions will be carefully vetted pursuant to a newly implemented internal review. Further, BULLY! PAC wishes to emphasize that at no time did BULLY! PAC or any of its agents make such a contribution in bad faith or with any intention to circumvent the contribution rules.

## II. ALLEGED EARMARKED CONTRIBUTION

Pfenning has alleged in her complaint that BULLY! PAC improperly accepted a contribution from Harold Newman. She has characterized it as impermissible earmarked contribution. It was never the intention or understanding of BULLY! PAC that such a contribution was earmarked. Harold Newman made a PAC contribution and BULLY! PAC separately communicated with the campaign regarding campaign services and determined that it would make an in-kind contribution to cover sign purchases. BULLY! PAC only made the in-kind contribution to Liffrog for Senate in an effort to contribute to the campaign and assist with the candidate committee's outstanding debt.

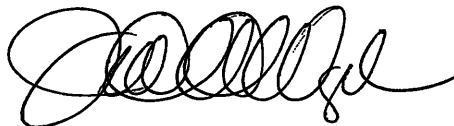
Contrary to Pfenning's allegations, BULLY! PAC never solicited the owner of a business that was owed money by the Liffrog for Senate campaign for the purpose of making a contribution on behalf of, or earmarked by, a third party.

### Conclusion

BULLY! PAC has to the best of its knowledge and belief addressed the allegations contained in Pfenning's complaint. BULLY! PAC concedes that it made an excessive contribution in error and has requested a refund from the Liffrog for Senate campaign. Further, BULLY! PAC asserts that it did not accept a contribution from Harold Newman as an earmark. Instead, its contribution was executed independently and not as part of any attempt to circumvent contribution limits.

BULLY! PAC respectfully requests that the Commission dismiss the complaint with respect to BULLY! PAC.

Sincerely,



Jill Holtzman Vogel

Enclosure



FEDERAL ELECTION COMMISSION  
Office of General Counsel  
999 E Street, NW  
Washington, DC 20463

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STATEMENT OF DESIGNATION OF COUNSEL  
Please use one form for each Respondent/Witness  
FAX (202) 219-9629

MUR: 5678

COUNSEL: Jill Holtzman Vogel

FIRM: Holtzman Vogel PLLC

ADDRESS: 98 Alexandria Pike, Ste 53 Warrenton, VA 20186

TELEPHONE - OFFICE: (540) 341-8808

FAX: (540) 341-8809

The above-named individual is hereby designated as my counsel and is authorized to receive any notifications and other communications from the Commission and to act on my behalf before the Commission.

10-11-05  
Date

[Signature]  
Signature

Pres.  
Title

RESPONDENT/WITNESS NAME (PRINT): Newman Signs

MAILING ADDRESS: 1606 6<sup>th</sup> Avenue SW  
Jamestown, ND 58402

TELEPHONE - HOME:

OFFICE: (761) 252-7325

Information is being sought as part of an investigation being conducted by the Federal Election Commission and the confidentiality provisions of 2 U.S.C. § 437g(a)(12)(A) apply. This section prohibits making public any investigation conducted by the Federal Election Commission without the express written consent of the person under investigation.

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999 E Street, NW  
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FAX (202) 219-9923

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TELEPHONE - OFFICE: (540) 341-8808

FAX: (540) 341-8809

The above-named individual is hereby designated as my counsel and is authorized to receive any notifications and other communications from the Commission and to act on my behalf before the Commission.

11 Oct 05  
Date

Nancy J. Schaffer  
Signature

TREASURER  
Title

RESPONDENT/WITNESS NAME (PRINT): NANCY SCHAFER

MAILING ADDRESS:

FAR60, MD 58104

TELEPHONE - HOME:

OFFICE: (704) 255-9500

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